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Approved For Release 2001/08/02 : CIA-RDP81-00142R000200030001-9

DB/A Registry

78-2208/2

MEMORANDUM FOR: Deputy Director for Administration

SUBJECT : Accommodation Procurement

REFERENCE : OGC Memo to DDA, dtd. 26 May 78, Same Subject
(OGC 78-3395)

1. (C) The referent memorandum highlights an aspect of our current accommodation procurement policy which the General Counsel believes has problem potential. While I agree in principle that accommodation procurements involving small amounts (i.e., \$3,000 or less) may be no different from those involving greater costs (i.e., in excess of \$3,000), I do not believe we should change the existing policy to require Headquarters review of all accommodation purchases. The delay involved could jeopardize the usefulness of minor accommodation procurements as an operational tool. Within the existing policy frame of reference, I believe the risk involved in a COS or COB unilaterally approving small accommodation procurements is minimal. In other words, it is my view that the disadvantages inherent in following our formal Headquarters approval procedures for small accommodation procurements outweigh the risks involved in an occasional accommodation procurement which may be viewed by external reviewers as inappropriate.

2. (C) With respect to the General Counsel's suggestion that accommodation procurements involving less than \$25,000 be approved by the DDO without the necessity of a formal memorandum, I believe this makes sense and agree that a corresponding change in our policy and procedures should be considered. In such cases, cables authorizing such procurements should be coordinated with this Office. Also, in this same connection, I believe the existing formal approval procedure should include a requirement for prior coordination with this Office. Comptroller coordination on outgoing cables granting approval for accommodation procurements up to \$25,000, and prior review of major accommodation procurement proposals would ensure that any possible policy issues or implications from our vantage point might be considered before implementing action is taken.

3. (C) I also agree with the point raised in paragraph 5 of the referent memorandum and believe that HR [REDACTED] should be revised to provide 5X1A for an exception to the basic accommodation procurement policy. The exception should not extend to high-level sources who hold high offices in their governments—accommodation purchases for such agents or sources should receive Headquarters review and approval.

25X1A

[REDACTED]
James H. Taylor
Comptroller

cc: OGC

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IMPDET CL BY 58392

ADMINISTRATIVE

DD/A Registry

File

Equipment + Supplies

DDA 78-2208/1

30 MAY 1978

MEMORANDUM FOR: General Counsel
FROM: John F. Blake
Deputy Director for Administration
SUBJECT: Accommodation Procurement
REFERENCE: Your Memorandum to DDA, dated 26 May
1978, Same Subject (OGC 78-3395)


Tony:

Jim McDonald, Director of Logistics, will be my
representative and will explore the issues you refer to
in your memorandum on "Accommodation Procurement."


John F. Blake

STATINTL

cc: Director of Logistics

ADDA/:lm (30 May 1978)

Distribution:

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- 1 - JFB Chrono

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78-2208

OGC 78-3395

26 May 1978

MEMORANDUM FOR: Deputy Director for Administration

FROM:

[REDACTED]
General Counsel

SUBJECT: Accommodation Procurement

REFERENCE: Headquarters Regulation [REDACTED] dated 4 January 1978

25X1A

1. [REDACTED] recently called HR [REDACTED] to my attention suggesting that one aspect of it might be objectionable from a legal standpoint. After looking over the regulation, I tend to agree with him. The regulation permits Chiefs of Stations or Bases to approve an accommodation procurement for items and services where the total or combined cost to the Agency and to the recipient is no greater than \$3,000 and which have "no significant risk or sensitivity" and for which export licenses are not required. Any other accommodation purchase, that is, one for more than \$3,000 (even where there is no "risk or sensitivity"), requires a formal request for approval. This request must contain all elements specified in paragraph C(1) of HR [REDACTED] including a discussion of the legal aspects which might affect our ability to conduct the particular accommodation procurement.

2. As I recall, the discussions and documents produced by the Executive Advisory Group when it reviewed this issue reflected policy as well as legal concerns. Commenting only on the latter, I believe the same legal questions must be addressed in those cases where an accommodation procurement costs less than \$3,000 as must be addressed in those cases where an accommodation procurement costs more than \$3,000. Therefore, I urge that this regulation be revised to state that all requests for accommodation procurements must be reviewed by the General Counsel. I also think we may be imposing an unrealistic burden on a Chief of Station or Base to determine "risk or sensitivity," removed as most are from the day-to-day policy and legal problems we must cope with at Headquarters, and to determine whether or not an export license would be required if this were purely a commercial matter. The latter determination requires the COS or COB to have available and to be able to interpret some fairly complex State and Commerce regulations found in the Code of Federal Regulations.

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25X1A 3. I do, however, feel that, through [REDACTED] working with the Office of Logistics and the DO, respectively, we may have enough of a control on the conduct of accommodation procurements that the formal approval mechanism established by HR [REDACTED] could be eased somewhat. I suggest that accommodation procurements where the total or combined cost to the Agency and to the recipient is no greater than \$25,000, the amount which will be approved by a DO area division chief, be permitted without the necessity of a formal memorandum such as now required by our regulation. This will provide the DO with some limited flexibility and I feel that through [REDACTED] I can be assured that the legal aspects will be addressed in cables prepared for release by the area division chiefs. 25X1A [REDACTED] tells me that up until the date of this regulation this system seemed to be working well and that it was an expedient way of conducting the DO's business. Such cables were reviewed by him and he had been ensuring that either the Office of Logistics or the area division logistics officers received copies of them. If, as a matter of policy, it is deemed necessary to produce memoranda for all accommodation procurements, then so be it, but I feel that with the controls that now exist if we can possibly expedite these matters we probably should. Would any possible policy issues which are not resolved by my suggestion be taken care of if, in cases of accommodation procurements of less than \$25,000, [REDACTED] were to ensure that the Comptroller either coordinated on the outgoing cable or received a copy of it? 25X1A

25X1A 4. [REDACTED] has told me that he has asked the DO to withhold coordination on the issuing of HR [REDACTED] until the questions raised above, particularly in paragraph 2, have been resolved. In addition, he has called to my attention that there is an [REDACTED] concerning Accommodation Property Transactions which has been on the books since April 1965, but there apparently has been no corresponding HR. I presume that after these issues have 25X1A 25X1A

25X1A 5. Finally, and this is intended only to raise a discussion point, might we not exclude from the scope of HR [REDACTED] an accommodation procurement (except weapons or other lethal items) for a foreign national who is a clandestine intelligence source? It seems to me that accommodation procurements for an agent's personal use, to the extent that there is an expenditure of funds by this Agency, may be interpreted as an expenditure "solely to obtain necessary intelligence." 25X1A

25X1A 6. If you think it useful, perhaps your representative could get together with [REDACTED] to explore these issues. 25X1A

cc: DDO C/PCS
D/Log AGC/Log
D/Finance
Comptroller

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LOGISTICS

HR

25X1A

16. ACCOMMODATION PROCUREMENT (C)

- a. (C) **GENERAL.** This regulation prescribes the policy and procedures for obtaining approval of accommodation procurement activities.
- b. (C) **DEFINITION.** Accommodation procurement encompasses three kinds of activity:
 - (1) **EXECUTIVE AGENT PROCUREMENT.** An item or service procured by the Agency for a foreign government or individual and paid for by another element of the U.S. Government.
 - (2) **ACCOMMODATION PROPERTY TRANSACTION.** An item or service procured by the Agency for a foreign government or individual and paid for by that government or individual. This includes material taken from Agency stocks.
 - (3) **ADVISORY SUPPORT TO COMMERCIAL SALES.** Advisory support provided by the Agency to a foreign government or individual to assist that government or individual in procuring goods and services directly from the vendors thereof.

The common element among these three kinds of activity is the provision of a service by the Agency to a foreign government or individual.

- c. (C) **POLICY AND PROCEDURES.** Each contemplated accommodation procurement activity must be fully discussed in writing and submitted to management for approval. The level of management authorized to approve each activity in general will depend on the magnitude of the activity, in terms of its cost to the foreign entity, the U.S. Government, or the Agency, and on its risk, probable duration, and sensitivity.
 - (1) **REQUEST FOR APPROVAL.** Each request for approval will contain the following elements:
 - (a) **A Description of the Proposed Activity.** This should be a complete statement of precisely what is to be done by each of the parties involved, and, where applicable, what will not be done.
 - (b) **A Discussion of Expected Purpose and Benefits.** This essentially is the justification for the proposed activity. It should be as complete and objective as possible. It may address such issues as furtherance of U.S. foreign policy and improved opportunities for unilateral and bilateral intelligence operations. It also should describe the benefits to the recipient government or individual.
 - (c) **A Discussion of the Costs and Risks.** This should cover all items making up the total "price to be paid" by all parties in return for the expected benefits. Included are direct costs to all parties as well as indirect costs to the Agency and, if applicable, to other elements of the U.S. Government. Such indirect costs would normally consist of personnel, travel, transportation, overseas living, and other costs readily identifiable with the proposed activity. Such costs must be presented for the entire duration of the activity. The discussion of risks should include the consequences to all parties of exposure of the activity to the public and of failure of the procured item or service to meet expectations. The risk of incurring an obligation to perpetuate the same or similar activities beyond conclusion of the proposed activity also should be considered.
 - (d) **A Discussion of Alternatives.** This should include a listing of alternatives to carrying out the proposed activity. The obvious alternatives to a proposed accommodation procurement are (1) for the procurement not to take place, (2) for the procurement to take place with the assistance of some other U.S. Government organization, or (3) for the procurement to take place without U.S. Government involvement. The advantages and disadvantages of each should be discussed with emphasis on why the proposed activity is the preferred choice.

4 January 1978 (1094)

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Approved [REDACTED] 08/02 : CIA-RDP81-00142R000200030001-9 LOGISTICS

- (e) A Discussion of the Legal Aspects. Since each proposed accommodation procurement must be in full compliance with U.S. laws and regulations, this discussion should begin with a statement of the legal authority under which the proposed activity would be carried out. This would be followed by a listing of other pertinent laws and regulations with statements of how the proposed activity will comply with each. Particular attention should be devoted to the Foreign Assistance Act of 1961, the Foreign Military Sales Act, and the Arms Export Control Act of 1976. The necessity or desirability of seeking approval of the proposal from the Special Coordinating Committee also should be addressed. The Office of General Counsel may be called upon for assistance. Except where approvals may be granted by Chiefs of Station or Base in accordance with paragraph (2)(a) below, the request must be reviewed by the General Counsel and his concurrence obtained in writing.

In general, the amount of discussion required to address the above items properly will vary greatly from one activity to the next. In the case of small procurement activity, the necessary discussion may entail little more than one page of standard declarations, whereas a contemplated major procurement activity involving millions of dollars plus substantial Agency personnel support would likely require much more extensive treatment.

(2) MANAGEMENT APPROVAL

- (a) Because accommodation procurements cover a wide range of activities of widely varying cost, duration, sensitivity, and risk, the level of management authorized to approve a proposed procurement activity also will vary. For the procurement of items or services whose total cost to the Agency and the recipient is no greater than \$3,000, which have no significant risk or sensitivity, and for which export licenses are not required, approval may be granted by the Chief of Station or Base. For the procurement of items or services whose total cost is no greater than \$100,000 but which are otherwise the same as above, approval may be granted by the Deputy Director concerned. All other procurements must be approved by the DDCL.
- (b) In those cases where it is apparent that support from directorates other than the one initiating the action will be required, the request for approval should be fully coordinated with these directorates. In cases involving weapons, the request for approval must have the concurrence of the Operations Directorate as set forth in current regulations.
- (c) The Office of the Comptroller will serve as a central repository for all accommodation procurement actions. A copy of each request for approval of an accommodation procurement will be provided to the Comptroller, and the Comptroller will be notified of the action taken on each request.

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4 January 1978 (1094)

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Next 5 Page(s) In Document Exempt

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